



# **MINUTES OF THE ORDINARY COUNCIL MEETING**

**HELD AT COUNCIL CHAMBERS, BREESE PARADE, FORSTER**

**ON Tuesday, 26 May 2009**

Keith O'Leary  
**GENERAL MANAGER**

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Minutes of the Ordinary Meeting of the Great Lakes Council held at the Council Chambers, Breese Parade, Forster on 26 May 2009 commencing at 9.39am.

## **PRESENT**

Present: Clr J McWilliams (Mayor), Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

## **IN ATTENDANCE**

General Manager - Keith O'Leary, Acting Director Engineering Services - David Bortfeld, Director Planning & Environmental Services - Glenn Handford, Director Corporate & Community Services - Steve Embry and Sue Bookallil - Administrative Support Assistant (Minute Taker).

## **ACKNOWLEDGEMENT OF COUNTRY**

The Mayor read the following statement:

"I acknowledge the Worimi people, the traditional owners of the land on which we meet today. I acknowledge their traditional wisdom and enduring culture."

## **PRAYER**

The Mayor led the meeting in prayer.

## **APOLOGIES**

Nil

The Mayor read aloud the following statement:

"An audio recording of this meeting is being made for minute taking purposes as authorised by the Local Government Act 1993 and may be made available to members of the public where Council is compelled to do so by court order, warrant, subpoena or by any other law, such as the Freedom of Information Act 1989."

## **ADOPTION OF MINUTES OF MEETING**

### **259 RESOLUTION**

(Moved L Roberts/Seconded J Stephens)

That the Minutes of the Ordinary Meeting of 21 April 2009, copies of which were distributed among the Councillors, be taken as read and confirmed as a true record of proceedings.

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## DECLARATIONS OF PECUNIARY & NON-PECUNIARY CONFLICTS OF INTEREST

Councillor/Staff Member	Item and Subject	Nature of Interest
Mr Glenn Handford	<p>Items 6 - PES - Outdoor Cinema Head Street, Forster and Reserve Road, Forster</p> <p>AND</p> <p>Item 10 - DES - Kinka Road, Seal Rocks</p>	<p>Non-pecuniary interest, the nature of the interest being Applicant is a family friend. Mr Handford elected to leave the meeting and take no part in discussions.</p> <p>Non-pecuniary interest, the nature of the interest being Consultant for objector is a family friend. Mr Handford elected to leave the meeting and take no part in discussions.</p>
Clr Leigh Vaughan	Item 21 - CCS - Renewal of Alcohol Free Zones adjacent to Palmgrove and Collendina Parks, Forster	Non-pecuniary interest, the nature of the interest being I live in the vicinity of Collendina Park. Clr Vaughan elected to leave the meeting and take no part in discussions or voting.
Clr Carol McCaskie	PES - Late Report - State Significant Development	Pecuniary interest, the nature of the interest being my property boundary adjoins the subject development. Clr McCaskie left the meeting and took no part in discussions or voting.
Clr John Weate	Item 26 - PES - Tender for Supply of One Articulated Wheel Loader	Pecuniary interest, the nature of the interest being that I am the Executive Officer of Community Resources. Resource Recovery is a project of Community Resources and may be using this equipment. Clr Weate left the meeting and took no part in discussions or voting.
Clr Jan McWilliams	Item 8 - Community Information Sign, Coomba Park	Non-pecuniary interest, the nature of the interest being that I am a personal friend of Committee Member at Coomba Park. Clr McWilliams elected to leave the meeting and take no part in discussions or voting.

**CONSIDERATION OF OFFICERS' REPORTS:**

**GENERAL MANAGER**

**1 GM - Code of Meeting Practice Amendment**

**Index: Governance - Code of Meeting Practice**  
**Author: Manager Corporate Governance - Phil Brennan**

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**RECOMMENDATION:**

That Council's Code of Meeting Practice be amended so as to incorporate the following addition:  
"Clause 14 (4) Without affecting the rights accorded under clause 20 in respect of Mayoral Minutes, the Mayor or chairperson will not move or second any motion or amendment that is brought before the meeting while presiding at that meeting."

**260 RESOLUTION**

(Moved L Roberts/Seconded L Gill)

That the above recommendation be adopted.

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**2 GM - Minutes of Audit Committee Meeting 18 May 2009**

**Index: Audit Committee**  
**Author: Manager, Corporate Governance - Phil Brennan**

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**RECOMMENDATION:**

That the minutes of the Audit Committee Meeting held on 18 May 2009 be noted.

**261 RESOLUTION**

(Moved J Stephens/Seconded C McCaskie)

That the above recommendation be adopted.

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**3 GM - Great Lakes Economic Development Advisory Committee - Minutes of Meeting held 18 February 2009 & 29 April 2009.**

**Index: Economic Development Advisory Committee**  
**Author: Economic Development Manager - Deb Tuckerman**

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**RECOMMENDATION:**

Minutes of the GLEDAC meetings held 18 February and 29 April 2009 are noted.

**262 RESOLUTION**

(Moved K Hutchinson/Seconded L Vaughan)

That the above recommendation be adopted.

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**DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES**

**4 PES - Wallis Lake Wetlands Strategy - Vision, Guiding Principles and Actions Draft for Public Exhibition**

**Index: Wetlands Conservation - Programmes**  
**Author: Senior Ecologist – Mat Bell**

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**RECOMMENDATION:**

That the Wallis Lake Wetlands Strategy – Vision, Guiding Principles and Actions report be scheduled for a Councillor Workshop to be held at the Strategic Committee Meeting of the 9<sup>th</sup> June 2009 for information and for consideration of the public exhibition of this document.

**263 RESOLUTION**

(Moved L Gill/Seconded L Vaughan)

That the above recommendation be adopted.

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In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

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## **5 PES - North Tuncurry and Chapmans Road Rezoning**

**Index: SP-LEP-30**

**Author: Manager, Strategic Planning - Alex Caras**

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### **RECOMMENDATION:**

Pursuant to clause 18 of the Environmental Planning and Assessment Regulation 2000, Council resolves to publicly exhibit draft Development Control Plan No. 55 (as contained in Attachment 'A') for a period of 28 days.

### **264 RESOLUTION**

(Moved Clr C McCaskie/Seconded L Vaughan)

That the above recommendation be adopted with the addition of the following words in draft DCP No. 55:

Performance Criteria, 2.2.1.

*or the land zoned industrial being Lot 12 DP 816473*

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

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## **7 PES - Adoption of the Sustainability Strategy**

**Index: NS-ENV-SUS**

**Author: Environmental Officer - Naomi Soustal**

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### **RECOMMENDATION:**

That the Great Lakes Strategy for a Sustainable Future be adopted by Council.

### **265 RESOLUTION**

(Moved L Gill/Seconded J Weate)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

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**10 PES - List of Matters before the Land and Environment Court - May 2009**

**Index:** Land and Environment Court Appeals - Development Application  
**Author:** Manager, Development Assessment - Wayne Burgess

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The Director Planning & Environmental Services declared a non-pecuniary interest, the nature of the interest being the consultant for objector is a family friend, left the meeting taking no part in discussions. The Manager, Development Applications, Mr Wayne Burgess joined the meeting.

**RECOMMENDATION:**

That the information be noted.

**266 RESOLUTION**

(Moved L Gill/Seconded C McCaskie)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

Mr Handford returned to the meeting.

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**11 PES - Great Lakes Catchment Management Committee Minutes of Meeting - 11 February 2009**

**Index:** NS-CATCH-GL-MGT; Council Committees Catchment Management Committee  
**Author:** Catchment Coordinator – Stacey Tyack

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**RECOMMENDATION:**

It is recommended that the information be noted.

**267 RESOLUTION**

(L Gill/J Weate)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

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**DIRECTOR ENGINEERING SERVICES**

**13 ES - Acceptance Of Grant - \$82,500 Bitou Bush Control And Removal Grant Received From Hunter Central Rivers CMA**

**Index: Grants & Subsidies - Caring for Our Country**  
**Author: Parks, Natural Assets Officer - Andrew Staniland**

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**RECOMMENDATION:**

That Council formally accepts the grant of \$82,500, for the control and removal of Bitou Bush, from the Hunter Central Rivers Catchment Management Authority (CMA).

**268 RESOLUTION**

(L Gill/L Roberts)

That the above recommendation be adopted.

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**14 ES - NSW Coastline Cycleway Grants Program 2008/09 - Tuncurry Cycleway - Grant Application**

**Index: Grants & Subsidies - Cycleway Grants**  
**Author: Traffic Engineer - Wade Holmes**

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**RECOMMENDATION:**

It is recommended that:

- a. Council formally accepts the grant of \$117,500 towards the construction of a cycleway from Forster - Tuncurry Bridge to Beach Street, Tuncurry; and
- b. A review is undertaken of Council's Footpath and Cycleway Priority Program to reflect the new cycleway construction program.

**269 RESOLUTION**

(Moved L Vaughan/Seconded C McCaskie)

That the above recommendation be adopted.

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**15 ES - Road Safety (Blackspot) and Traffic Management Program**

**Index: Grants And Subsidies**  
**Author: Manager Transport Assets - Greg Pitt**

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**RECOMMENDATION:**

That Council advise the RTA of acceptance of funding limits for the 2009/2010 financial year for construction of road improvements and traffic management facilities on The Lakes Way and at the intersection of South Street and Bent Street, Tuncurry.

**270 RESOLUTION**

(Moved L Gill/Seconded K Hutchinson)

That the above recommendation be adopted.

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**16 ES - Road Safety Strategic Plan 2009-2012**

**Index: Traffic & Transport Facilities - Road Safety Officer Projects**  
**Author: Road Safety Officer - Sarah Stenning**

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**RECOMMENDATION:**

That Council review and adopt the Road Safety Strategic Plan 2009-2012.

**271 RESOLUTION**

(Moved C McCaskie/Moved L Gill)

That Council adopt the Road Safety Strategic Plan 2009-2012.

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**17 ES - 355 Sport & Recreation Committee Meetings**

**Index: Minutes of 355 Sport & Recreation Committee - Pacific Palms**  
**Author: Parks Assets Officer - Kris Koch**

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**RECOMMENDATION:**

That Council notes the minutes of the 355 Sport and Recreation Committees.

**272 RESOLUTION**

(Moved L Gill/Seconded L Roberts)

That the above recommendation be adopted.

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## **PUBLIC ADDRESSES**

### **PES - DA3264/1988 - Section 96AA Modification and Development Consent Application: Woodchip Plant, Pindimar Road, Tea Gardens**

#### **PUBLIC ADDRESS 1 - Ms J Keats**

Ms Keats representing the Great Lakes Environment Association, addressed Council objecting to the Woodchip Plant.

#### **PUBLIC ADDRESS 2 - Mr S Bowers**

Mr Steve Bowers representing the Owners, addressed Council in support of the application. Mr Graham Benson was asked to address Council in respect of questions raised by Councillors.

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### **PES - Community Information Sign - Lot 7008 DP 1075608 - Foreshore Reserve, Coomba Park**

Clr McWilliams declared a non-pecuniary interest, the nature being that she is a personal friend of Committee member at Coomba Park, left the meeting and took no part in discussions or voting. The Deputy Mayor took the Chair.

#### **PUBLIC ADDRESS 3 - Vickii Simpson**

Mrs Vickii Simpson representing the Coomba Park community addressed Council in support of the proposed modification.

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### **PES - Outdoor Cinemas: Lot 44 DP 753168 - Head Street, Forster (Forster Town Park) and Lot 7088 DP 1066047 - Reserve Road, Forster (Reserve 79681 - near Coastal Patrol Building)**

#### **PUBLIC ADDRESS 4 - Peter Howard**

The Mayor resumed the Chair.

The Director Planning & Environmental Services declared a non-pecuniary interest, the nature of the interest being the applicant is a family friend, left the meeting taking no part in discussions. The Manager, Development Applications, Mr Wayne Burgess joined the meeting.

Mr Peter Howard, Owner of Great Lakes Cinema 3, addressed Council objecting to the proposal.

The Director Planning & Environmental Services returned to the meeting.

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### **ES - Naming of Memorial Drive Reserve**

#### **PUBLIC ADDRESS 5 - Harley Gregory**

Mr Gregory addressed Council in support of the proposal.

## DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES

### 8 PES - Community Information Sign - Lot 7008 DP 1075608 - Foreshore Reserve, Coomba Park

**Index:** DA 144/2009 & PK36347  
**Author:** Development Assessment Planner – David Koppers

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Clr McWilliams declared an non-pecuniary interest, the nature being that she is a personal friend of Committee member at Coomba Park, left the meeting and took no part in discussions or voting. The Deputy Mayor took the Chair.

#### **RECOMMENDATION:**

It is recommended that the Section 82A Review of Determination for DA 144/2009 which proposes to modify Condition 3 at Lot 7008 DP 1075608 Foreshore Reserve, Coomba Park be refused for the following reasons:

1. The proposal is not consistent with the assessment requirements of State Environmental Planning Policy 64 – Advertising and Signage and State Environmental Planning Policy 71 – Coastal Protection.
2. The approval of the proposed modification would set an undesirable precedent for the erection of commercial signage on foreshore reserves.

#### **273 RESOLUTION**

(Moved K Hutchinson/Seconded L Gill)

That the modification of Condition 3 in DA 144/2009 be approved with Condition 3 to include:

- Side A Commercial Component to face Coomba Road and Side B Community Component to face Wallis Lake.
- 

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

ABSENT. DID NOT VOTE - Clr J McWilliams

Clr McWilliams returned to the meeting at this time, and resumed the Chair.

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**6 PES - Outdoor Cinemas: Lot 44 DP 753168 - Head Street, Forster (Forster Town Park) and Lot 7088 DP 1066047 - Reserve Road, Forster (Reserve 79681 - near Coastal Patrol Building)**

**Index: DA 237/2009 & PK 7560**

**Author: Development Assessment Planner - David Koppers**

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The Director Planning & Environmental Services declared a non-pecuniary interest, the nature of the interest being the applicant is a family friend, left the meeting taking no part in discussions. The Manager, Development Applications, Mr Wayne Burgess joined the meeting.

**RECOMMENDATION:**

It is recommended that Development Application No. 237/2009 for Outdoor Cinemas at Head Street (Lot 44 DP 753168) and Reserve Road (Lot 7088 DP 1066047 – Reserve 79681), Forster is approved subject to the following conditions of consent:-

The following condition/s have been applied to ensure that the development complies with the provisions of the Environmental Planning and Assessment Act and Regulations and Policies of Council:

1. The development must be in accordance with the STAMPED PLANS, the application form and on any supporting information received with the application, except as may be amended by the following conditions.
2. The operation of the Outdoor Cinemas will be restricted to a trial period of 12 months at which time a review of the conduct of the Outdoor Cinema will be carried out. In this regard, the review will include a referral to the NSW Police Service. If the review is acceptable to Council, the development may continue to operate. If the review is not acceptable there shall be no continuation of this development as approved under this consent.
3. The development is classified as a "public assembly" under the Summary Offences Act 1988. This legislation requires the operator must serve a notice to the Commissioner of Police (via the Local Area Commander) prior to each public assembly gathering. Details of the type of information required to be submitted can be found under Part 4 of the Summary Offences Act 1988.
4. The applicant is to liaise with the NSW Police Local Area Command for the Forster area regarding the appropriate staffing levels for private security personnel for the events. Written confirmation of this is to be provided prior to the commencement of any movies.
5. A minimum of two portable toilets must be provided at each screening. The toilets must be cleaned every 3 hours, or as required and toilet paper, soap and handtowels must be provided at all times.
6. Promotional/advertising signage is not to be displayed upon any site other than the site approved for the event.
7. Noise associated with the use of the cinema shall not be permitted to exceed the background noise level by more than 5 dB(A) LAeq(15 minutes) at the nearest affected residence.
8. Noise associated with the use of the cinema must not be a source of offensive noise at the nearest affected residence:  
offensive noise" means noise:

- a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
    - i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
    - ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or
  - b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulation.
9. Movies must be completed by no later than 10:30pm.
  10. Food stalls and food handlers shall be registered with and approved by Council, prior to being permitted to attend an event.
  11. Food stalls and food handlers associated with the cinema shall at all times comply with the requirements of the Food Act 2003, the Food Standards Code and Council's Guidelines for Commercial Operators/Charity Organisations at Temporary Events. Copies of these Guidelines are available at Council.
  12. A temporary food notification must be completed by all food stall holders, prior to attending an event. This can be completed on the Internet at [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au).
  13. The operator is to provide their own separate external power supply. No connection or extension of mains power is permitted. Any fuel powered generators shall not exceed 5dBa above background noise. Fuel generators will also be required not to generate excessive amounts of fumes/smoke that create a public health nuisance.
  14. Under no circumstances shall alcohol be consumed within the Council reserves in connection with this development.
  15. For the proposed venue area located adjacent to the Coastal Patrol Building and prior to each screening of movies, the applicant shall provide temporary lighting for the visual safe passage for patrons to enter and leave the:-
    - a) Venue and seating areas;
    - b) Adjacent car parking areas.
 at the commencement and end of each screening (or other similar event).  
 The temporary lighting should be in general accordance with Australian Standard - AS 1158.
  16. Three weeks notice is required to be submitted to Council prior to any event being scheduled. Availability of the site(s) will be dependent on prior bookings.
  17. The use of Town Park is restricted to a maximum of two nights in any given week.
  18. Certificate of Currency for Public Liability Insurance needs to be supplied with a minimum level of indemnity of 10M noting Council and Crown as interested parties.
  19. A commercial licence is required from Parks & Recreation prior to commencement of activities. A licence fee of \$1000 applies as per Council's adopted Fees & Charges.
  20. No permanent structures are to be erected or installed.
  21. Payment of a refundable \$1000 damage bond is required prior to the event. Pre inspection and post inspection of the reserve to be carried out with event organiser and council officer 2 days prior to the event and 1 day after the event.
  22. No glass is permitted on the reserve at any time.

23. The site is to be free of obstacles and trip hazards such as power leads.
24. Area is to be left clean and tidy at the conclusion of activities each day/night and rubbish removed from the site. Separate bins are to be provided for rubbish collection. Council bins shall not be utilised for this purpose.
25. Due to the length of tenure the Coastal Patrol site must be mowed every 10 days.
26. The operator will be required to remove all security fencing at the completion of the holiday period when multiple events per week are no longer proposed to be conducted.

**RECOMMENDATION:**

(Moved L Gill/Seconded L Vaughan)

That the above recommendation be adopted.

An amendment was moved by Clr L Roberts, seconded Clr M Tuffy that the proposal be refused for the following reasons:

1. safety
2. security
3. type and genre of films to be shown
4. it is for a seven (7) day commercial use of Crown land of which Council is trustee
5. it is not a one-off special event, but an on-going commercial venture.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the amendment, the results of which were as follows:

FOR VOTE - Clr M Tuffy, Clr L Roberts

AGAINST VOTE - Clr J McWilliams, Clr C McCaskie, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

The amendment was lost.

A further amendment was moved by Clr Hutchinson, seconded by Clr C McCaskie that the matter be deferred to the next Strategic Committee meeting pending clarification of the conditions of consent and further information being obtained in terms of the proposed operating parameters of the cinema.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the further amendment, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Vaughan

AGAINST VOTE - Clr L Gill, Clr J Weate

The amendment was carried and became the substantive motion.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the substantive motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Vaughan

AGAINST VOTE - Clr L Gill, Clr J Weate

## **274 RESOLUTION**

That the matter be deferred to the next Strategic Committee meeting pending clarification of the conditions of consent and further information being obtained in terms of the proposed operating parameters of the cinema.

The Director Planning & Environmental Services returned to the meeting.

### **DIRECTOR ENGINEERING SERVICES**

#### **12 ES - Naming of Memorial Drive Reserve**

**Index:** Parks & Reserves - Naming of Parks & Reserves  
**Author:** Parks Asset Officer - Kris Koch

---

#### **RECOMMENDATION:**

1. Council approve in principle, the proposal to name the northern portion of Lot 7098, DP 1051656 "Gregory Reserve" and advertise the proposed naming for a period of 28 days.
2. If no submissions are received by the end of this period it is recommended that the naming proposal be adopted.

## **275 RESOLUTION**

(Clr L Gill/Clr K Hutchinson)

That the above recommendation be adopted.

---

### **DIRECTOR CORPORATE & COMMUNITY SERVICES**

#### **19 CCS - Renewal of Lease: Country Women's Association and Forster Neighbourhood Centre**

**Index:** Council Property - Leasing General; AD-LSE-BABY-FOR  
**Author:** Leasing/Caravan Parks Officer - Pat Powell

---

#### **RECOMMENDATION:**

It is recommended that:

- 1 New leases be granted to the Country Women's Association (Forster Branch) and the Forster Neighbourhood Centre for the rooms in the old Baby Health Centre located on Reserve 79034 in Little Street, Forster, consisting of a meeting room, kitchen, storeroom and use of the toilet area within the building (CWA) and waiting room, two offices and attached tearoom and use of the toilet area within the building (Neighbourhood Centre), for a term of three (3) years commencing from 1 July 2009.
  - 2 The rentals be set at \$3,270 per annum, GST inclusive (Forster Neighbourhood Centre) and \$981 per annum, GST inclusive (CWA), for the initial year and that the rental be adjusted annually in accordance with the relevant Consumer Price Index formula.
  - 3 The conditions to be as set out in this report.
  - 4 The Common Seal of Council be affixed to all necessary documents.
-

## **276 RESOLUTION**

(Moved J Stephens/Seconded L Vaughan)

That the above recommendation be adopted.

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### **20 CCS - Request for Variation of Rental, Wootton Community Resource Centre**

**Index: Council Property - Leasing General; AD-LSE-COMM-WOOTTON**  
**Author: Leasing/ Caravan Parks Officer - Pat Powell**

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#### **RECOMMENDATION:**

It is recommended that:

- 1 The rental of the Wootton Community Resource Centre for the five year period commencing 1 March 2009 be reduced to 50% of the statutory minimum, being \$200 per annum for the first rental year, with annual CPI adjustment thereafter.
- 2 The Wootton Community Network be advised to plan for the payment of the full minimum rental from the commencement of the next lease period in March 2014.
- 3 That should the Minister approve any further reductions on other properties below the minimum statutory limit, Council apply the same principle and discount the amount by 50% of the statutory limit.

## **277 RESOLUTION**

(Moved L Gill/Seconded K Hutchinson)

That the above recommendation be adopted.

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### **21 CCS - Renewal of Alcohol Free Zones adjacent to Palmgrove and Collendina Parks Forster**

**Index: Alcohol Free Zones**  
**Author: Administration Officer - Yvette Ellis**

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Clr L Vaughan declared a non pecuniary conflict of interest, the nature of the interest being an owner of property in the vicinity and left the meeting taking no further part in discussions or voting.

#### **RECOMMENDATION:**

1. Council resolve to re-establish the Alcohol Free Zones adjacent to Palmgrove and Collendina Parks under the provisions of the Local Government Amendment (Alcohol Free Zones) Act 1995 for a period of four years.
  2. Areas to be included in the Alcohol Free Zones to be those shown outlined on the diagrams at Annexures A and B.
  3. The necessary statutory requirements be undertaken to allow the re-establishment of these areas.
-

## **278 RESOLUTION**

(Moved C McCaskie/Seconded M Tuffy)

That the above recommendation be adopted.

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## **22 CCS - Library Committee Minutes of Meeting held 13 May 2009**

**Index: Library General**

**Author: Manager Library Services - Chris Jones**

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Clr L Vaughan has returned from temporary absence at 12:14 PM

### **RECOMMENDATION:**

That the recommendations from the Library Committee meeting of 13 May 2009 be adopted.

## **279 RESOLUTION**

(Moved J Weate/Seconded L Roberts)

That the above recommendation be adopted with the following amendments:

1. Item CCS02 - Be referred to the Extraordinary Meeting to be held on 9 June 2009, with a presentation to be made by the Chair of the committee.
  2. Item CCS01 - The allocation of three more timed parking spots at the front of the Forster Library be supported and referred to the Traffic Advisory Committee.
- 

## **18 CCS - Quarterly Review of 2008/2009 Management Plan and Budget as at 31 March 2009**

**Index: Financial Management - Management Plan Quarterly Reports**

**Author: Director Corporate & Community Services - Steve Embry**

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### **RECOMMENDATION:**

That the 2008/2009 Management Plan Quarterly Performance and Budget Review Statements to 31 March 2009 be received and noted and that the budget variations be adopted.

## **280 RESOLUTION**

(Moved J Stephens/Seconded C McCaskie)

That the above recommendation be adopted with the following amendment to the budget variations:

That the operational savings of \$28,600 achieved within the Library Budget be reallocated to the Library Bookvote Capital Purchase budget as a "one off" only course of action to offset the significant reduction in the 2009/10 Bookvote budget.

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**23 CCS - Minutes of the Commercial Enterprises Committee meeting held on 18 May 2009**

**Index: Council Meetings - Commercial Enterprises Committee**  
**Author: Leasing/Caravan Parks Officer - Pat Powell**

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**RECOMMENDATION:**

That all recommendations from the Commercial Enterprises Committee meeting held 18 May 2009 be adopted.

**281 RESOLUTION**

(Moved J Stephens/Seconded J Weate)

That the above recommendation be adopted.

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**24 CCS - Investment Report as at 30 April 2009**

**Index: Investments**  
**Author: Revenue Accountant - Colin Mckillop-Davies**

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**RECOMMENDATION:**

It is recommended that the information concerning Council's investments as at 30 April 2009 be noted.

**282 RESOLUTION**

(Moved Clr Weate/Seconded Clr Tuffy)

That the above recommendation be adopted.

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**DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES**

**9 PES - DA3264/1988 - Section 96AA Modification and Development Consent Application: Woodchip Plant, Pindimar Road, Tea Gardens**

**Index: DA3264/1988 & PK18920**  
**Author: Senior Development Assessment Planner – Alan Bawden**

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**RECOMMENDATION:**

A. It is recommended that Council approve the Modification of Development Consent application DA 3264/1988 for the Woodchip Mill on Lot 1 DP 714149; Pindimar Road Tea Gardens subject to the following conditions:

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**Delete condition 4 and substitute with:**

4. The output of the plant shall be limited to 150,000 tonnes of chips per year with a maximum output and haulage of 600 tonnes in any one day. An annual report for each calendar year commencing 2009, shall be submitted to Council detailing compliance with this condition.

**Add condition 24**

Detailed design plans being submitted with an Application for a "Public Engineering Works Permit" (PEWP).

Detailed design plans are to be approved by the Director of Engineering prior to the commencement of any engineering works. The licensed contractor is to have all engineering works inspected as per Council's holding points. All work is to be at the developer's expense and must comply with Council's engineering guidelines, specifications and standards.

The work is to be completed within 12 months from the date of determination of the S96A Modification. Lodgement of a security bond in the amount of \$50,000 with Council, to ensure compliance with the conditions of consent regarding the construction of the driveway turnout and intersection construction. Upon satisfactory completion and acceptance of the required works by Council, the security bond will be refunded in full.

Included in the engineering works is to be the following:

- a) Construct a full depth concrete pavement for both the driveway turnout and Pindimar Road at the driveway intersection; Note: The driveway is to be constructed at right angles to Pindimar Rd. Council will contribute 50% of the cost of the full depth concrete pavement in Pindimar Rd. (Traffic lanes and shoulder work only).
- b) Submission with the PEWP, of a concrete road pavement design by a suitably qualified geotechnical consultant;
- c) B-Double turning paths are required to be submitted to Council for approval for site access. Turning paths are to be wholly contained within the concrete pavement.
- d) A work site traffic control plan in accordance with the RTA Traffic Control at Work Site Manual is to be submitted by a suitably accredited person prior to a PEWP being issued.

**Add condition 25**

Lodgement of a Public Engineering Works Permit Application Form and payment of the following, prior to Council issuing a Building Construction Certificate:

- a) Engineering supervision fees in accordance with Council's Schedule of Fees at the time of lodgement of plans.
- b) A defects liability bond of 5% of the value of all public engineering works associated with the development, as required by this approval, with a minimum of \$2,700. The defects liability bond is to be paid upon acceptance of the public works. Please note that an Occupation Certificate will not be issued until this bond is paid. This bond will be lodged in a Council Trust Fund to cover any defects in the works subsequent to their acceptance by Council. One (1) year after the acceptance of these works by Council, the bond will be refunded if, at an inspection arranged by the applicant, no defects are apparent.

The defects liability bond is reviewed periodically and the amount may change prior to the release of the subdivision. The fees and maintenance period shall be determined from Council's current requirements at the time of acceptance of these works.

**Add condition 26**

All adjustments to existing utility services made necessary by the development are to be undertaken at the developer's expense.

**Add condition 27**

Submission of a Damage Bond Application Form and payment of a bond in the amount of \$2,110 payable for the purpose of funding repairs to any damage that may be occasioned to Council assets by activities/works associated with the construction of the development approved by this consent and ensuring Council standards and specifications are complied with. The bond shall be paid to Council prior to the commencement of work

**Note:** The bond will be considered for refund by the Engineering Services Division when an application for occupancy of the development is lodged.

A fee will be deducted from the bond to cover administration costs as follows:

- a) \$110.00 for developments up to \$400,000;

The Damage Bond is reviewed periodically and therefore the fee and bond amount payable shall be determined from Council's current fees and charges document at the time of lodgement of the Damage Bond.

- B. That Council write to the applicant requesting details, including timeframes, on actions undertaken to bring the woodchip mill into full compliance with the development approval as issued in 1991, or a further application to modify the consent lodged. Such action is to be carried out within three (3) months.

**RECOMMENDATION**

(Moved J Stephens/Seconded M Tuffy)

That this matter be deferred until later in the meeting to enable the Director of Planning & Environmental Services to provide a report on approving the modification in line with the recommendation in the Business Paper with the following additions:

- 1. A Deferred Commencement Condition to ensure compliance before any works commence.
- 2. Removal of the 50% Council contribution towards the Intersection Upgrade contained in Condition 24(a).

An amendment was moved by Clr Gill and seconded by Clr Roberts that Council reject the application due to its significant impact; issues of Climate Change not being addressed; and comprehensive traffic matters not being fully addressed.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the amendment, the results of which were as follows:

FOR VOTE - Clr L Gill

AGAINST VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Vaughan, Clr J Weate

The amendment was declared lost.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Vaughan, Clr J Weate  
AGAINST VOTE - Clr L Gill

## **283 RESOLUTION**

That this matter be deferred until later in the meeting to enable the Director of Planning & Environmental Services to provide a report on approving the modification in line with the recommendation in the Business Paper with the following additions:

1. A Deferred Commencement Condition to ensure compliance before any works commence.
  2. Removal of the 50% Council contribution towards the Intersection Upgrade contained in Condition 24(a).
- 

*Council adjourned for lunch at 12.45pm.*

A Citizenship Ceremony was conducted for Ms Arsella Weatherall, Ms Rejane Chapman and Ms Judith Wedgwood.

*Council reconvened at 1.52pm.*

Clr John Stephens left the meeting at this time (1.52pm).

## **DEFERRED FROM MORNING SESSION - PES - DA 3264/1988 - Section 96AA Modification and Development Consent Application: Woodchip Plant, Pindimar Road, Tea Gardens**

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The Director of Planning & Environmental Services presented the following revised recommendation as requested by Council.

### **RECOMMENDATION:**

It is recommended that:

- A. That Council write to the applicant requesting details, including timeframes, on actions undertaken to bring the woodchip mill into full compliance with the development approval as issued in 1991, or a further application to modify the consent lodged. Such action is to be carried out within three (3) months.
- B. Upon receipt of the information contained in part 'A' that Council grant delegated authority to the General Manager to determine the Modification of Development Consent application DA 3264/1988 for the Woodchip Mill on Lot 1 DP 714149; Pindimar Road Tea Gardens subject to the following conditions:

**Delete condition 4 and substitute with:**

4. The output of the plant shall be limited to 150,000 tonnes of chips per year with a maximum output and haulage of 600 tonnes in any one day. An annual report for each calendar year commencing 2009, shall be submitted to Council detailing compliance with this condition.

**Add condition 24**

Detailed design plans being submitted with an Application for "Publication Engineering Works Permit"(PEWP).

Detailed design plans are to be approved by the Director of Engineering prior to the commencement of any engineering works. The licensed contractor is to have all engineering works inspected as per Council's holding points. All work is to be at the developer's expense and must comply with Council's engineering guidelines, specifications and standards.

The work is to be completed within 12 months from the date of determination of the S96A Modification. Lodgement of a security bond in the amount of \$50,000 with Council to ensure compliance with the conditions of consent regarding the construction of the driveway turnout and intersection construction. Upon satisfactory completion and acceptance of the required works by Council, the security bond will be refunded in full.

Included in the engineering works is to be the following:

- a) Construct a full depth concrete pavement for both the driveway turnout and Pindimar Road at the driveway intersection; Note: The driveway is to be constructed at right angles to Pindimar Rd (Traffic lanes and shoulder work only).
- b) Submission with the PEWOP, of a concrete road pavement design by a suitably qualified geotechnical consultant;
- c) B-Double turning paths are required to be submitted to Council for approval for site access. Turning paths are to be wholly contained within the concrete pavement.
- d) A work site traffic control plan in accordance with the RTA Traffic Control at Work Site Manual is to be submitted by a suitably accredited person prior to a PEWP being issued.

**Add condition 25**

Lodgement of a Public Engineering Works Permit Application Form and payment of the following, prior to Council issuing a Building Construction Certificate:

- a) Engineering supervision fees in accordance with Council's Schedule of Fees at the time of lodgement of plans.
- b) A defects liability bond of 5% of the value of all public engineering works associated with the development, as required by this approval, with a minimum of \$2,700. The defects liability bond is to be paid upon acceptance of the public works. Please note that an Occupation Certificate will not be issued until this bond is paid. This bond will be lodged in a Council Trust Fund to cover any defects in the works subsequent to their acceptance by Council. One (1) year after the acceptance of these works by Council, the bond will be refunded if, at an inspection arranged by the applicant, no defects are apparent.

The defects liability bond is reviewed periodically and the amount may change prior to the release of the subdivision. The fees and maintenance period shall be determined from Council's current requirements at the time of acceptance of these works.

**Add condition 26**

All adjustments to existing utility services made necessary by the development are to be undertaken at the developer's expense.

**Add condition 27**

Submission of a Damage Bond Application Form and payment of a bond in the amount of \$2,110 payable to the purpose of funding repairs to any damage that may be occasioned to Council assets by activities/works associated with the construction of the development approved by this consent and ensuring Council standards and specifications are complied with. The bond shall be paid to Council prior to the commencement of the work.

**Note:** The bond will be considered for refund by the Engineering Services Division when an application for occupancy of the development is lodged.

A fee will be deducted from the bond to cover administration costs as follows:

- a) \$110.00 for developments up to \$400,000.

The Damage Bond is reviewed periodically and therefore the fee and bond amount payable shall be determined from Council's current fees and charges document at the time of lodgement of the Damage Bond.

**284 RESOLUTION**

(Moved K Hutchinson/Seconded L Vaughan)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr K Hutchinson, Clr L Vaughan, Clr J Weate

AGAINST VOTE - Clr L Gill

ABSENT. DID NOT VOTE - Clr J Stephens

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**DIRECTOR CORPORATE & COMMUNITY SERVICES**

**25 CCS - List of Outstanding Reports**

**Index: Council Meetings**

**Author: Director Corporate & Community Services - Steve Embry**

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**RECOMMENDATION:**

Submitted for Council's information/consideration.

## **285 RESOLUTION**

(Moved L Gill/Seconded K Hutchinson)

That the report be noted.

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### **DIRECTOR ENGINEERING SERVICES**

#### **29 ES - LATE REPORT - Approval to Complete Private Works for the NSW DECC**

**Index: Private Works - Construction by Council**  
**Author: Manager Operations - Robert Fish**

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#### **RECOMMENDATION:**

That Council:

In accordance with section 67 (2)(b) of the Local Government Act 1993:

1. Approve an amount less than the prescribed 25% profit margin in the Sundry Debtor/Private Works Procedure.
2. Undertake pavement rehabilitation works on Mungo Brush Road for the NSW DECC, with profit to be calculated as follows:
  - 5% profit margin on subcontractor works and materials supply costs
  - 25% profit margin on day labour and plant costs

## **286 RESOLUTION**

(Moved J Weate/Seconded L Vaughan)

That the above recommendation be adopted.

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### **LATE REPORTS**

#### **DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES**

##### **PES - LATE REPORT- Joint Regional Planning Panel**

**Index: Development Applications General**  
**Author: Director Planning & Environment - Glenn Handford**

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#### **RECOMMENDATION:**

That the information contained within the report be noted and Council resolve a further course of action.

---

## **287 RESOLUTION**

(Moved L Roberts/Seconded L Gill)

That Council endorse and follow the recommendations of the Board of Hunter Councils, LGSA, and the Local Government Planner Directors Group.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate  
ABSENT. DID NOT VOTE - Clr J Stephens

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### **GENERAL MANAGER**

#### **27 GM - LATE REPORT- Nominations for Membership of the Great Lakes Tourism Advisory Committee.**

**Index: 355 Committee - Great Lakes Tourism**  
**Author: Manager Tourism & Marketing - Richard Old**

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#### **RECOMMENDATION:**

It is recommended that:

1. Dominique Vasers, Shona Hunter Howarth, Eddie Youngblood and Carolyn Richards be elected to the Great Lakes Tourism Advisory Committee for a four year term commencing on 2 May 2009.
2. Outgoing member Kevin Calvert be thanked for his contribution to tourism in the Great Lakes.

## **288 RESOLUTION**

(Clr L Gill/Clr K Hutchinson)

That the above recommendation be adopted.

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### **MEET THE PUBLIC SESSION**

The Mayor invited members of the gallery who wished to address Council on any items not listed on the agenda to do so at this stage.

#### **Meet the Public 1 - Mr Rowntree**

Mr Rowntree addressed Council regarding his land at Boomerang Beach and queried the current situation in relation to rezoning. It was agreed that the Director of Planning & Environmental Services would arrange to provide a briefing to Mr Rowntree.

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A presentation was given by Ms Vicki Smith, Great Lakes Team Leader, Leisure & Respite Options regarding the recent 2009 Local Government and Shires Association Cultural Award to the Can-Do Drama Group: Peregrine for winning the Accessible Arts Award Category.

## **LATE REPORTS**

### **DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES**

#### **PES - Late Report - State Significant Development - Concept Plan and Project Application (MP06-0010)**

Clr C McCaskie declared a pecuniary interest, the nature of the interest being an adjoining owner, left the meeting taking no part in discussions or voting on this item.

Mr Geoff Cox, Mr Peter Childs and Dr Daniel Martens, Crighton Properties Pty Ltd addressed Council in support of this project.

#### **RECOMMENDATION:**

That the information be noted.

## **289 RESOLUTION**

(Moved L Roberts/Seconded J Weate)

That Council delegate authority to the Mayor and General Manager to respond to the PAC based on the information reported to Council and Council Officer reports with strong emphasis on Council's policy of allowing development only if water quality can be maintained or improved.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr L Roberts, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

ABSENT. DID NOT VOTE - Clr C McCaskie, Clr J Stephens

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### **DIRECTOR ENGINEERING SERVICES**

#### **28 ES - LATE REPORT - Dedication of Crown Public Road to Council as Public Road - Kinka Road, Seal Rocks**

**Index: Crown Roads - Transfer to Council Control**

**Author: Senior Engineering Development Officer - Dean Hartmann**

---

The Director Planning & Environmental Services declared a non-pecuniary interest, the nature of the interest being the applicant is a family friend, left the meeting taking no part in discussions or voting.

Clr C McCaskie has returned from temporary absence at 03:35pm.

**RECOMMENDATION:**

It is recommended that:

1. Council accept dedication of Kinka Road, between Thomas Road and Lot 3 DP 847752, including the triangular parcel of land fronting Lot 4 Section 2, as shown on Crown plan G6460-1497 as being "required for road widening"; and
2. The Department of Lands be requested to transfer the subject road to Council under Section 151 of the Roads Act 1993.

**290 RESOLUTION**

(Moved L Roberts/Seconded K Hutchinson)

That the above recommendation be adopted with the addition of point 3:

3. Council also seek dedication of Horgan Place, Seal Rocks.

Clr Gill requested that her name be recorded against the motion.

---

The Director Planning & Environmental Services returned to the meeting.

**CLOSED COUNCIL**

**291 RESOLUTION**

(Moved K Hutchinson/Seconded L Roberts)

That Council move into Closed Council (Confidential Section of Ordinary Meeting) (Meeting Closed to the Public) to discuss the items listed in the report.

Upon resuming into Open Council the Chairman reported that the following resolutions had been adopted.

**26 ESCONF - Tender for the Supply of One Articulated Wheel Loader**

**Index: Tenders - Successful Tenders**

**Author: Plant & Depot Coordinator - Paul Langley**

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**RECOMMENDATION:**

That Council accept the tender supplied by Westrac for a Caterpillar 938G11.

**292 RESOLUTION**

(Moved Clr L Roberts/Seconded L Vaughan)

That the above recommendation be adopted.

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## **LATE BUSINESS**

### **Tea Gardens Cycleway**

A report was requested on the impact of the designated cycleway route in Tea Gardens with regard to the removal of parking places from the front of people's houses and subsequent contribution issues. The Director Engineering Services to follow the matter up.

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### **Council Familiarisation**

The issue of a Council familiarisation tour of the Local Government Area was raised. The General Manager to follow the matter up and schedule an appropriate time in August.

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### **Climate Change Requirements - Tea Gardens**

The Director Planning & Environmental Services to provide a report looking at the issue of floor level requirements in relation to climate change and flooding in Tea Gardens.

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## **URGENT LATE BUSINESS**

### **Tuncurry Jockey Club**

#### **293 RESOLUTION**

(Moved L Gill/Seconded J Weate)

That a report be provided to the Strategic Committee meeting on 9 June 2009 concerning the jockey club's request for the deferment of certain conditions.

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## **MEETING CLOSURE**

The meeting closed at 4.17pm.

## **CHAIRPERSON**